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THOMAS B. MILLER
Commissioner

In the matter of:

[REDACTED] COMPANY LP

Contact: [REDACTED]
[REDACTED] Property Tax Dept
[REDACTED]

FINAL RULING NO. 2008-47
July 25, 2008

Assessment of Telecommunications Property Tax for tax year 2006.

FINAL RULING

The Department of Revenue ("Department") currently has an outstanding Telecommunications Property ad valorem tax assessment for tax year 2006 against [REDACTED] Company LP ("Company LP"). [REDACTED] has claimed a true value of \$[REDACTED] for tax year 2006 (year ending December 31, 2005). For the 2006 tax year, [REDACTED] filed the Department's Form 61A500(P) for Property Tax for Communications Service Providers and Multi-channel Video Programming Service Providers. See KRS 136.600 to 136.660 and 132.825. [REDACTED] has accepted the Department's assessed value; therefore, valuation is not at issue.

At issue is how the claimed value of the operating property should be allocated to the various classes of property. Specifically, the issue is which property is to be classified as Tangible as opposed to property to be classified as Telephonic. See KRS 132.200(5).

[REDACTED] contends that the allocation of the claimed value should be as follows:

Tangible Property	\$ [REDACTED]
Telephonic Equipment	\$ [REDACTED]

██████████ contends the property in question, allocated as Telephonic Equipment, is telephonic within the meaning of KRS 132.200(5), and enjoys the reduced tax rate provided by KRS 132.020(j). See KRS 132.020(j).

KRS 136.600 [Purpose of KRS 136.600 to 136.660 and 132.825] states:

- (1) Addresses an important state interest in providing a fair, efficient, and uniform method for taxing communications services sold in this Commonwealth;
- (2) Overcomes limitations placed upon the taxation of communications service by federal legislation that has resulted in inequities and unfairness among providers and consumers of similar services in the Commonwealth;
- (3) Simplifies an existing system that includes a myriad of levies, fees, and rates imposed at all levels of government, making it easier for communications providers to understand and comply with the provisions of the law;
- (4) Provides enough flexibility to address future changes brought about by industry deregulation, convergence of service offerings, and continued technological advances in communications; and
- (5) Enhances administrative efficiency for communications service providers, the state, and local governments by drastically reducing the number of returns that must be filed and processed on an annual basis.

KRS 132.200 provides, in part:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

KRS 132.200(5) states:

Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

KRS 132.020(j) states:

Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;

It is the Department's position that the property allocated as Telephonic Equipment by ██████████ does not qualify for treatment as Telephonic under KRS 132.020(j). ██████████, in recent assessments going back to the 2002 tax year (year ending December 31, 2001), has not allocated any property to Telephonic. ██████████ is a long distance telephone company and does not have any property that should be classified as Telephonic under KRS 132.020(j). Further, the Department contends that none of ██████████'s operating property is "directly used or associated with electronic equipment which broadcasts electronic signals to an antenna" per KRS 132.020(j).

Based on the above, the Department maintains that the classification of ██████████'s claimed value should be allocated as follows:

Tangible Property	\$ ██████████
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This is the final ruling of the Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, Kentucky 40602-2120, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeals before the Board is governed by the following rules set forth in Section 2 (3) of 802 KAR 1:010:

1. An individual may represent himself in hearings before the Board;
2. An individual who is not an attorney may not represent any other individual, corporation, trust, estate, or partnership before the Board; and
3. An attorney who is not licensed to practice in Kentucky may practice before the Board if he complies with Rule 3.030(2) of the Rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,
Finance and Administration Cabinet

A handwritten signature in black ink, appearing to read "Jason Snyder", is written over the typed name.

Jason Snyder
Executive Director
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED